



WASHINGTON STATE
Board of Health
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DATE: January 11, 2012

TO: Washington State Board of Health Members

FROM: Keith Grellner, Environmental Health Committee Chair

SUBJECT: PETITION FOR RULEMAKING: WAC 246-100-197, Rabies—
MEASURES TO PREVENT HUMAN DISEASE

Background and Summary:

On December 28, 2011, the Washington State Board of Health received a petition for rule making in the form of an e-mailed letter from Rebecca Faust of Shelton, Washington. The petition asks the Board to make changes to WAC 246-100-197, Rabies—Measures to prevent human disease. The first requested change is to repeal subsection (3), which requires owners of dogs, cats, and ferrets to have them vaccinated against rabies according to vaccine manufacturer recommendations. The second request is to repeal subsections (5)(a) and (5)(b), which prohibit most people from possessing or importing into this state a bat, skunk, fox, raccoon, or coyote. The third request appears to entail either of the following to change provisions of subsections (6), (7), and (8): (a) rescind authorization of local health officers to euthanize an animal that has an owner; or (b) provide an opportunity for an appeal before a health officer euthanizes an animal, during which time quarantine of the animal would be allowed.

RCW 34.05.330 provides the opportunity for anyone to petition the Board with a request to adopt, amend, or repeal any of its rules. Upon receipt of such a petition, the Board has sixty days to initiate rule making, deny the petition, or address concerns raised by the petitioner by alternate means. Board policy number 2005-001 sets forth the procedures followed by the Board when it receives such a request. According to this policy, the chair may either decide on the request and instruct the executive director to respond or may take the request to the full Board for discussion and possible action if the Board meets within the 60-day timeframe.

Chair Austin has briefly discussed this petition with the Board's Environmental Health (EH) Committee. The EH Committee would like additional time to discuss the merits of the petition before making a recommendation on a response to the petitioner. Therefore, the EH Committee recommends the Board be briefed today and Chair Austin make a decision later based on any discussion by the full Board today and a later recommendation from the EH Committee. Ned Therien, Board staff, will summarize this rule making petition for the Board today. Please refer to materials behind Tab 09 for additional information.

Recommended Board Action:

The Board may wish to consider the following motion:

The Board requests Chair Austin to further consult with the Board's Environmental Health Committee and, using his discretion, respond to the petition for rulemaking from Rebecca Faust dated December 28, 2011 regarding WAC 246-100-197, Rabies—Measures to prevent human disease.

Discussion:

The Board adopted WAC 246-100-197 on November 10, 2010 with an effective date of January 1, 2012. Most of the provisions of this new section were transferred from a previously existing rule that was amended the same day: WAC 246-100-191, Animals, birds, pets—measures to prevent human disease. Subsection (3), requiring owners to have their dogs, cats, and ferrets vaccinated against rabies, is a new provision. The new rule exempts animal shelters from the vaccination requirement based on the concept of temporary custody. The term animal shelter was not defined because there was no change from a standard dictionary definition. A person may refer to *Dictionary.com* for the definition. The cost of vaccination and public health benefits were discussed in the Preliminary Significant Analysis presented to the Board for the November 10, 2010 public hearing. The Board discussed the cost and benefits at the hearing and unanimously adopted the new requirement.

Subsections (5)(a) and (5)(b) of WAC 246-100-197 were derived from subsection (2) of previously existing WAC 246-100-191. The text was edited and the list of entities exempted from possessing or importing a bat, skunk, fox, raccoon, or coyote was clarified and somewhat expanded with new definitions. The Board's authority for the provisions of this section is derived from chapter 16.70 RCW, Control of pet animals infected with diseases communicable to humans, and RCW 43.20.050.

Subsections (6) and (7) of WAC 246-100-197 guide a local health officer to order a mammal suspected of being exposed to rabies to be confined or euthanized and tested. Subsection (8) guides a local health officer to order a mammal that has potentially exposed a human to rabies to be confined or euthanized and tested. These subsections are derived from subsection (3), (4) and (8) of previously existing WAC 246-100-191. The new subsections reflect editing; updating to be more consistent with the 2008 version of the Compendium of Animal Rabies Prevention and Control; and a change in direction to local health officers from "shall" to "may" providing greater local flexibility. These provisions are otherwise within the broad authority of local health officers under RCW 70.05.070 and any processes required by their local boards of health.

The Department of Health provides guidance to local health officers and others on evaluating potential rabies exposures in a document called *Washington State Guidelines for Human Rabies Prevention*, available on its web site at <http://www.doh.wa.gov/notify/other/rabiesalg.pdf>.